# MEMENTO OF THE EMPLOYER 08

## TOPIC



## NEWS



PARTENA PROFESSIONAL

INSIDE A PRACTICAL DOCUMENT TO ANNOUNCE REPLACEMENT DAYS FOR 2015

# NEW RULES ON PREVENTION OF PSYCHOSOCIAL RISKS IN THE WORKPLACE (II)

In last month's *Mémento*, we started to look into the new rules on the prevention of psychosocial risks in the workplace. Workers who consider that they are suffering mental harm, which may be accompanied by physical harm, resulting from psychosocial risks in the workplace (which particularly include violence, bullying or sexual harassment) have a number of remedies at their disposal.

Last month, we looked at how the worker can invoke an internal psychosocial intervention procedure, which can take the form of an **informal request for psychosocial intervention** or a **formal request** for psychosocial intervention.

The formal request can furthermore be of a mainly **collective** nature or be presented as a request of a mainly **individual** nature. It is this latter aspect that we deal with in this *Mémento*. We then complete the information by setting out the other means of action available to workers and the statutory protection mechanism against dismissal and any form of harmful measure.

## 01 FORMAL PSYCHOSOCIAL INTERVENTION OF A MAINLY INDIVIDUAL NATURE

### 1 INFORMATION

Where the health and safety adviser for psychosocial aspects (HSAPA) considers that the request for formal psychosocial intervention is of a mainly individual nature, they must:

- inform the employer that such a request has been made; and
- provide the worker's identity.

Furthermore, where the request concerns acts of violence, bullying or sexual harassment in the workplace, the health and safety adviser (HSAPA) must, once they accept the request, inform the employer in writing of the fact that the worker who filed the request is entitled, as from the time of filing the request, to protection against dismissal and against any harmful measure.

### 2 EXAMINATION OF THE REQUEST

The health and safety adviser (HSAPA) conducts an entirely impartial examination of the work situation taking account of the information passed to them

by such persons as they consider it useful to hear on the matter. This information may be collected in dated, signed statements, which may mention that the persons giving them agree to their statement being passed to the public prosecutor (if they are asked for). They are given a copy of their statement.

In the framework of examining a request based on acts of violence, bullying or sexual harassment in the workplace, the HSAPA:

- notifies the alleged culprit of the facts they are accused of as quickly as possible;
- hears any witnesses or other persons they consider worth hearing and examine the request in a fully impartial manner;
- immediately advises the employer of the fact that the workers giving a witness statement and whose names are disclosed are entitled to protection from dismissal and any harmful measure.

Moreover, in this situation, the alleged culprit and the witnesses are given a copy of their statements, dated AND signed, which may mention that the persons heard consent to their statement being passed to the public prosecutor (if requested).

**N.B.**

**If required by the seriousness of the facts, the health and safety adviser proposes interim measures to the employer before submitting their opinion. As quickly as possible, the employer writes to them with its reasoned decision as to what action it proposes taking in terms of interim measures.**

## 3 PREPARATION OF AN OPINION

The health and safety adviser (HSAPA) draws up an opinion containing:

- a description of the request and its context;
- identification of the dangers for the applicant worker and the workforce as a whole;
- the factors having a positive and negative influence on the risk situation (in terms of the organisation of work, the content of the work, the employment conditions, living conditions or interpersonal relations in the workplace, etc.);
- (as appropriate) previous steps taken to eliminate any danger and mitigate the damage;
- proposed individual and collective preventive measures needing to be implemented in the specific work situation to eliminate any danger and mitigate the damage, and the grounds justifying them;
- proposed collective preventive measures to be implemented to prevent any repetition in other work situations, and the grounds justifying them.

Within a maximum period of three months from acceptance of the request, the health and safety adviser for psychosocial aspects (HSAPA) submits their opinion:

- to the employer (even if the applicant worker ceases to be on the company's workforce during the course of the intervention);
- with the agreement of the applicant worker, to the confidential adviser if they have been involved in the same situation in the context of a request for informal psychosocial intervention;
- (where these institutions make a written request and with the worker's written consent), the Equal Opportunities and Anti-Racism Centre and the Institute for Sexual Equality, which many not, however, send the opinion to the worker.

This three-month period can be extended by a maximum of three months if the health and safety adviser for psychosocial aspects (HSAPA) gives valid reasons for the extension in writing to the employer, the applicant worker and the other person directly implicated.

## 4 COMMUNICATION TO THE HEALTH AND SAFETY ADVISER FOR PSYCHOSOCIAL ASPECTS (HSAPA)

As soon as possible, the health and safety adviser (HSAPA) informs the applicant worker in writing and the other person directly implicated of:

- the date on which their opinion was submitted to the employer;
- the proposed collective and individual preventive measures needing to be implemented in the specific work situation to eliminate any danger and mitigate the damage, and the grounds justifying them if these grounds make it easier to understand the situation and to accept the outcome of the procedure.

Where they form part of an external health and safety at work service, the health and safety adviser for psychosocial aspects has at the same time to send the health and safety adviser charged with management of the internal health and safety in the workplace service:

- the proposed collective and individual preventive measures needing to be implemented in the specific work situation to eliminate any danger and mitigate the damage;
- the proposed collective preventive measures to be implemented to prevent any repetition in other work situations;
- the grounds justifying these proposals if these grounds allow the health and safety adviser in the internal service to exercise their coordination tasks.

**If the employer envisages taking individual measures** vis-à-vis a worker, it notifies them in writing beforehand and no later than one month after receiving the opinion of the health and safety adviser for psychosocial aspects. If these measures amend the worker's employment conditions, the employer in that case sends them a copy of the opinion of the health and safety adviser for psychosocial aspects and hears them at a meeting at which the worker can arrange to be assisted by a person of their choice.

## 5 DECISION TAKEN BY THE EMPLOYER

No later than two months after receiving the opinion of the health and safety adviser for psychosocial aspects (HSAPA), the employer will send its reasoned written decision on the action it will take further to the request to:

- the health and safety adviser for psychosocial aspects (HSAPA) ;
- the applicant worker;
- the other person directly implicated;
- (where the health and safety adviser for psychosocial aspects forms part of an external health and safety at work service) the health and safety adviser charged with management of the internal health and safety in the workplace service.

The employer will then implement the measures it has decided to take as quickly as possible. We would also point out that, if individual preventive measures are to be taken vis-à-vis a worker of an external company that carries out activities within the company on a permanent basis, the employer (for whose business the activities are permanently carried out) contacts the employer of the outside company where this is useful to ensure their actual implementation.

## 6 POSSIBLE APPEAL TO THE WELFARE SUPERVISION DIRECTORATE

The health and safety adviser for psychosocial aspects (HSAPA) is required to bring the matter before the Welfare at Work Supervision Directorate within the FPS Employment, Labour and Workers' Codetermination where:

- the employer fails to take the necessary interim measures;
- they find, after submitting their opinion, that the employer fails to take measures, or appropriate measures and, either, there exists a serious, imminent danger to the worker or the alleged culprit is the employer or forms part of the management staff.
  "Management staff" means the persons charged with the day-to-day running of the company that have power to represent and bind the employer, plus staff members immediately subordinate to such persons where they also carry on day-to-day management tasks.

# 02 OTHER MEANS OF ACTION

If the worker considers that they are suffering mental harm, which may also be accompanied by physical harm, resulting from psychosocial risks in the workplace, they may also:

- either refer the matter to the Inspectorate for Supervision of Welfare in the Workplace;
- or raise court proceedings before the competent court.

## 1 WELFARE SUPERVISION INSPECTORATE

The worker is at all times able to bring their complaint before the Inspectorate for Supervision of Welfare in the Workplace, which is a department of the FPS Employment, Labour and Workers' Codetermination. This department of the Manpower Inspectorate will examine whether the employer is fulfilling its obligations in relation to prevention of employment risks. In fact, the Welfare Supervision Inspectorate will intervene (or exercise supervision) in the second line: the inspectorate will verify whether the employer is adhering to the regulations. If need be, it can oblige the employer to set up an internal health and safety at work service (SIPP in French) or require it to engage an external service (SEPP in French). The Inspectorate can also order the employer to take certain, mainly organisational, measures. If the Inspectorate fails in its task, it can raise a prosecution petition and send it to the employment prosecutor, who may then institute legal proceedings.

## 2 RECOURSE TO THE COURTS

If the worker considers that they are suffering mental harm, which may also be accompanied by physical harm, resulting from psychosocial risks in the workplace, which particularly include violence, bullying or sexual harassment, they may take the matter before the competent court. There are **three conceivable actions**:

1) a cease and desist order;
2) an action seeking provisional measures
3) an action in damages.

The cease and desist action involves getting an injunction from the court ordering cessation of the acts of violence, bullying or harassment in the workplace by the culprit (the employer, worker or a third party).

An action seeking provisional measures comprises enforcing application of the preventive measures, ordering implementation of organisational measures or the institution of provisional measures or even forcing the employer (if it is not the perpetrator) to take measures effectively terminating the acts of violence, bullying or sexual harassment.

Ultimately, in a case of violence, bullying or sexual harassment in the workplace, any party (worker, employer or third party) who believes they are the victim of such behaviour can immediately raise an action for damages. The damages will, at the victim's choice, correspond to the loss actually sustained (whose quantum they can prove) or a lump sum of three times the victim's gross salary. The quantum can be raised to six months' gross pay in any of the following **three situations**:

1) the behaviour is linked to a form of discrimination (beliefs, skin colour, sexual orientation);
2) the perpetrator is in a position of authority vis-à-vis the victim;
3) the seriousness of the acts.

**NOTE**

**Where the worker has requested formal psychosocial intervention based on acts of violence, bullying or sexual harassment in the workplace or the alleged culprit envisages lodging a court action, the employer sends them, if so asked, a copy of the opinion of the health and safety adviser for psychosocial aspects.**

03

# PROTECTION AGAINST DISMISSAL AND ANY REPRISAL MEASURES

Special protection against dismissal and reprisal measures is accorded **only to workers who consider they are the target of violence, bullying or sexual harassment** in the workplace and for whom a formal request for psychosocial intervention has been accepted. This protection also applies to workers involved in this context as witnesses (see point 2, below).

There is therefore no particular protection for workers who report some other psychosocial risk.

## 1 WORKERS ENTITLED TO PROTECTION

Protection against dismissal and other harmful measures is accorded to the following workers:

- the worker filing a **formal request for psychosocial intervention based on acts of violence, bullying or sexual harassment** in the workplace at company level. The protection starts on the date of receipt of the request provided the request has been accepted;
- a worker filing a **complaint** in the context of acts of violence, bullying or sexual harassment in the workplace, **with the Welfare at Work Supervision Directorate** (as from the time when the complaint is acknowledged as received) in which they request its intervention on one of the following grounds:
  - the employer has failed to appoint a health and safety adviser specialised in the psychosocial aspects of work;
  - the employer has failed to implement due and proper procedures;
  - the formal request for psychosocial intervention based on acts of violence, bullying or sexual harassment in the workplace has not, in the worker's view, succeeded in putting an end to the acts of violence, bullying or sexual harassment in the workplace;
  - the procedures have not, in the worker's view, been applied in a legal manner; in that case, protection starts at the time when the complaint in due legal form is acknowledged as received by the addressee.
- a worker filing a complaint in the context of acts of violence, bullying or sexual harassment in the workplace, with the police, public prosecutor or investigating judge (as from the time when acknowledgement of receipt of the complaint is given) in which they ask for their intervention on one of the following grounds:
  - the employer has failed to appoint a health and safety adviser specialised in the psychosocial aspects of work;
  - the employer has failed to implement due and proper procedures;
  - the formal request for psychosocial intervention based on acts of violence, bullying or sexual harassment in the workplace has not, in the worker's view, succeeded in putting an end to the acts of violence, bullying or sexual harassment in the workplace;
  - the procedures have not, in the worker's view, been applied in a legal manner; in that case, protection starts at the time when the complaint in due legal form is acknowledged as received by the addressee;
  - the internal procedure is inappropriate given the seriousness of the acts to which they have been subjected;
- a worker raising a court action, or for whom one is raised, seeking to enforce compliance with the rules on violence, bullying or sexual harassment in the workplace (as from service of the summons or filing at the court registry);
- a worker acting as a witness by dint of the fact that, within the framework of examination of the formal request for psychosocial intervention based on acts of violence, bullying or sexual harassment in the workplace, they have informed the health and safety adviser for psychosocial aspects in a dated, signed document of the facts that they themselves have seen or heard and that relate to the situation forming the subject-matter of the request (as from the time when the witness statement is filed);
- a worker giving witness testimony in court within

the framework of acts of violence, bullying or sexual harassment in the workplace (as from the time at which they are summonsed or subpoenaed to give court testimony).

The protection period ends:

- at the end of the 12 months following filing of the request for intervention, filing of the complaint or the giving of testimony; or
- at the end of the three months following the time when the judgment becomes final.

## 2 PRINCIPLE

The employer may not terminate the employment relationship of protected workers or take any harmful measure against them after the cessation of employment relations, except for reasons having nothing to do with:

- hthe formal request for psychosocial intervention based on acts of violence, bullying or sexual harassment in the workplace;
- the complaint;
- the court action;
- the testimony.

Furthermore, whilst the employment relations are being executed, the employer may not take any harmful measure vis-à-vis these same workers that is linked to the four reasons listed above.

"Harmful measure" after the cessation of employment relations means, for example, refusal to provide references to new potential employers of the former worker, plus not renewing the open-ended contract of a worker for the sole reason that they gave testimony or filed a request based on harassment in the workplace.

Any interim measure taken by the employer further to serious acts of violence, bullying or sexual harassment brought to its attention is not a harmful measure provided it is proportionate and reasonable.

## 3 REINTEGRATION OR REINSTATEMENT OF THE EMPLOYMENT CONDITIONS

If the employer terminates the employment contract or unjustifiably unilaterally alters the employment conditions (e.g. unjustifiably seconding the employee to another department without their agreement) during the period referred to above, the worker or the trade union organisation that they are a member of can **demand their reinstatement in the company** under the terms prevailing before the facts on with the complaint was founded. This is an option that is available, and not an obligation.

The demand for the worker's reinstatement has to be served by recorded delivery letter within 30 days of the date of:

- service of the notice of dismissal;
- immediate termination of the contract;
- the unilateral change to the employment conditions.

The employer then has to take a position on the demand within 30 days of the time it is notified to it. **Two stances** are then conceivable:

1) if the employer **reinstates the worker** under the terms prevailing before the facts on which the complaint was founded, the employer has to pay the wages lost due to the dismissal or change in employment conditions and pay the employer's and the worker's personal social security contributions in relation to those wages;
2) if, on the other hand, the employer does not reinstate the worker or does not reinstate the old employment conditions, the worker can claim payment of a "protection indemnity".

## 4 PAYMENT OF A PROTECTION INDEMNITY

The employer has to pay a protection indemnity in the following **two cases**:

1) where, further to the demand being submitted, the worker is not reinstated or taken back into their position under the terms prevailing before the facts on which the complaint was founded, provided that the court rules that the dismissal was unfair or the unilateral change in the employment conditions was unjustified;

2) where the worker has not submitted a demand for reinstatement and the court takes the view that the dismissal or change in the employment conditions had something to do with the filing of the complaint or the raising of court proceedings.

The protection indemnity is equal to one of the following, at the worker's option:

- either a lump sum corresponding to six months' gross pay;
- or a sum corresponding to the loss actually suffered, provided the worker can prove the quantum of their loss.

**Legal Knowledge**

DIAGRAM 3

# FORMAL REQUEST FOR PSYCHOSOCIAL INTERVENTION OF A MAINLY INDIVIDUAL NATURE

(AND, AS THE CASE MAY BE, FOR ACTS OF VIOLENCE, BULLYING OR SEXUAL HARASSMENT IN THE WORKPLACE)

## FIRST STEP

The health and safety adviser (HSAPA) **informs** the employer **in writing** of:

- the filing of a formal request for intervention of a mainly individual nature (as the case may be, for acts of violence, bullying or sexual harassment);
- the identity of the applicant worker;
- the protection regime the applicant is entitled to (as of the date of receipt of the request).

## SECOND STEP

**Impartial examination of the request** by the HSAPA.

- Hearing of all persons they consider it useful to hear [1]
- In the case of a request concerning acts of violence, bullying or sexual harassment:
  - notification as soon as possible to the alleged culprit of the acts they are accused of;
  - notice to the employer that the direct witnesses (whose identities are disclosed) are protected against dismissal and any harmful measure.

N.B. If the seriousness of the facts so requires, the HSAPA proposes interim measures to the employer. [2]

## THIRD STEP

**The HSAPA draws up an opinion** within a maximum of three months [3] from acceptance of the request, and **it is sent to**:

- the employer;
- the confidential adviser, who has intervened in the context of the informal procedure, with the agreement of the applicant worker;
- The Equal Opportunities and Anti-Racism Centre (at their request and with the agreement of the applicant worker) if the request concerns acts of violence, bullying or sexual harassment.

## FOURTH STE

As soon as possible, the HSAPA **informs** the applicant and alleged culprit **in writing**:

- of the date their opinion is sent to the employer;
- the proposed preventive measures and the grounds justifying them;

N.B. If the employer takes individual measures vis-à-vis a worker, it informs them no later than one month after receiving the HSAPA's opinion.

## FIFTH STEP

No later than two months after receiving the HSAPA's opinion, **notification by the employer of its reasoned decision** on the action to be taken further to the request, to:

- the HSAPA;
- the applicant worker;
- the other person directly implicated;
- the health and safety adviser in charge of management of the internal health and safety service (SIPP) where the HSAPA forms part of an external health and safety service (SEPP).

Then, implementation by the employer of the measiures decided on, as soon as possible.

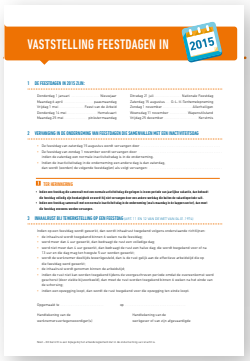
## SIXTH STEP

**Possible recourse** to the Welfare Supervision Directorate if the HSAPA finds that the employer does not take the necessary interim measures or has taken no measures or inappropriate measures.

1 The information collected can be contained in dated, signed statements which may, if necessary, contain the consent of the persons heard for the statement to be sent to the public prosecutor.
2 The employer must notify them of its decision as soon as possible regarding what action it is going to take regarding the proposed interim measures, Otherwise the HSAPA can refer the matter to the Welfare Supervision department.
3 This period can be extended by up to three months if the HSAPA gives grounds for the extension by sending the reasons in writing to the employer, the applicant and the other person implicated.

# NOTIFICATION OF REPLACEMENT DAYS

## Use this practical form to notify the public holidays and replacement days for 2015 in your company.*


VASTSTELLING FEESTDAGEN IN 2015

## HOW DO YOU PROCEED?

1. Determine the replacement days for the public holidays which are weekend days.
2. Enter the replacement days on the preprinted form.
3. Post the document on a visible location in your company before 15 December 2014.
4. If possible, also use other channels to inform your staff members of the replacement days.

* Notification must be done before 15 December 2014.

SOCIAL NEWS

# EXEMPTION FROM WAGE WITHHOLDING TAX FOR YOUNG WORKERS (2014)

An exemption can be claimed from wage withholding tax on salaries paid to certain young workers for the fourth quarter of 2014.

To claim the exemption, there are **three conditions**:

1) The employee has to be **a young worker meeting the conditions contained in section 36(1)(1°) to (3°) of the Royal Decree of 25 November 1991 regulating unemployment matters**, i.e.:

   - they must no longer be under an obligation to attend school;
   - they must have completed certain kinds of studies, notably the full-year higher secondary cycle or the lower secondary cycle in technical or vocational training, or an apprenticeship, or have obtained a certificate in reduced-timetable secondary education;
   - they must have terminated all compulsory activities required under the course, apprenticeship or reduced-timetable training syllabus and under any full-year study programme.

2) The young worker must be employed under a **contract of employment that starts during the months of October, November or December 2014**. Consequently, any person who starts work in September does not qualify under the scheme.

3) **The monthly taxable amount cannot exceed €2,700**.

The exemption is applicable from the month of hiring (October, November of December) until the end of calendar year 2014. As from 1 January 2015, wage withholding tax has to be deducted from the young worker's pay.

**Peggy Criel,** Legal Counsel

WAGE ADJUSTMENTS

# WAGE ADJUSTMENTS IN OCTOBER 2014

## Index figures for September 2014

Consumer price index 2013: ▸ 100.09 (-0.08)
Health index 2013: ▸ 100.06 (-0.06)
Averaged quarterly health index: ▸ 100.25 (-0.05)

## Collectively-negotiated indexations and increases: selected forecasts

Joint Bargaining Committee (CP) 218: ▸ approx. +0.30% indexation in January 2015
Average monthly minimum wage/Welfare benefits: ▸ +2% in April 2015

| Indexations and wage adjustments for October 2014 | |
|---|---|
| 105 | **Non-ferrous metals:** Award of eco vouchers to a value of €250 unless other arrangements made in collective agreement made before 30.06.2014. Qualifying period from 01.10.2013 to 30.09.2014. Prorated for part-timers. |
| 106.1 | **Cement works -**0.05% index adjustment on minimum wages only. |
| 109 | **Clothing and tailoring industry -**0.21% index adjustment on all wages (the social partners have decided by collective agreement not to apply the index decrement, but it will be factored in at the next index adjustment). |
| 111.1-2 | **Large and small-scale metal processing undertakings:** Award of eco vouchers to a value of €250 unless other arrangements made in collective agreement made before 30.06.2014. Qualifying period from 01.10.2013 to 30.09.2014. Prorated for part-timers. |
| 111.3 | **Metal bridge and steelwork assembly undertakings:** Award of eco vouchers to a value of €250 unless other arrangements made in collective agreement made before 30.06.2014. Qualifying period from 01.10.2013 to 30.09.2014. Prorated for part-timers. |
| 113.4 | **Tile works:** -0.25% index adjustment on all wages (the social partners have decided by collective agreement not to apply the index decrement). |
| 117 | **Oil industry and retail trade:** -0.05% index adjustment on minimum wages only. |
| 120.2 | **Flax processing:** -0.21% index adjustment on all wages (the social partners have decided by collective agreement not to apply the index decrement, but it will be factored in at the next index adjustment). |
| 124 | **Construction:** -0.10% index adjustment on minimum wages and wages actually paid (up to the same amount) (the social partners have decided by collective agreement not to apply the index decrement, but it will be factored in at the next index adjustment). |
| 125.1 | **Forestry:** Index decrement, which the social partners have decided by collective agreement not to apply. |
| 125.2 | **Sawmills and allied industries:** Index decrement, which the social partners have decided by collective agreement not to apply. |
| 125.3 | **Timber trade:** Index decrement, which the social partners have decided by collective agreement not to apply. |
| 128.1-2-3-5 | **Tanning and retail trade of raw hides and skins; footwear industry, boot and shoemakers; leather goods and glove industries; saddlery, belting and industrial leather goods:** Index decrement, which the social partners have decided by collective agreement not to apply. |
| 130 | **Printing, graphic arts and newspapers:** Job classification adjustments with corresponding pay scale wages. Manual workers employed on 24.04.2014 (first phase of the introduction of new job functions): maximum +€0.5/hour of the positive difference between the actual wage and the pay scale wage. |
| 136.1 | **Paper and paperboard converting:** Making of paper tubes: -0.30% index adjustment on all wages. |
| 140.1 | **Buses and coaches** Coaches (on-board personnel) +0.11% index adjustment on all wages. |

| | |
|---|---|
| 140.3 | **Road transport and contract haulage:**<br>Operating personnel: introduction of a new job classification from 19.06.2014. It will come into force only when the corresponding pay scales are brought in. |
| 148 | **Furs and pelts** -0.21% index adjustment on all wages (the social partners have decided by collective agreement not to apply the index decrement, but it will be factored in at the next index adjustment). |
| 209 | **Non-manual workers in the metal manufacturing industry:**<br>Companies NOT subject to the industry supplementary pension provisions:<br>- employer's contribution in 2009 above 1.1% but below 1.77%: Award of balance of eco vouchers to all scaled and scalable full-time non-manual workers.<br>- employer's contribution in 2009 above 1.77%: Award of eco vouchers to a value of €250 for all scaled and scalable full-time non-manual workers. Qualifying period from 01.10.2013 to 30.09.2014. Prorated for part-timers. Other spendable income arrangements may be made by a works collective agreement (or opt-in agreement) concluded on or before 30.06.2014. |
| 215 | **Non-manual workers in the clothing and tailoring industry** -0.21% index adjustment on minimum wages and wages actually paid (up to the same amount) (the social partners have decided by collective agreement not to apply the index decrement, but it will be factored in at the next index adjustment). |
| 224 | **Non-manual workers in non-ferrous metals:** Award of eco vouchers to a value of €250 unless other arrangements made in collective agreement made before 30.06.2014. Qualifying period from 01.10.2013 to 30.09.2014. Prorated for part-timers. |
| 307 | **Insurance brokers and agencies:** Award of eco vouchers to a value of €125 for all workers employed at least 4/5ths time, €100 for workers employed between 3/5ths and 4/5ths time, €75 for workers employed between ½ time and 3/5ths time, €62.50 for part-time workers employed half-time, and €50 for non-manual workers employed less than half-time. Qualifying period from 01.12.2013 to 30.11.2014. Not applicable if converted into an equivalent employee benefit before 31.03.2014 (via a works collective agreement in firms with a shop stewards' committee). Paid in the 4th quarter 2014. |
| 314 | **Hairdressing and beauty treatment:**<br>Hairdressing: +€0.5/hour collectively-negotiated on minimum wages only (Category II only).<br>+€0.75/hour (or €123.50/month) collectively-negotiated on minimum wages only (Categories III, IV and V).<br>Beauty treatments: +2.5% on collectively-negotiated minimum wages only (all categories).<br>Fitness: introduction of a new job classification with corresponding pay scale wages from 01.07.2014. |
| 320 | **Funeral services:** Award of eco vouchers to a value of €250 for workers employed at least 80% of full-time, €200 for workers employed between 60% and 80% of full-time, €150 for workers employed between 50% and 60% of full time. Qualifying period from 01.10.2013 to 30.09.2014.<br>Award of eco vouchers to a value of €1 for every 7 hours worked or equivalent (cf. annual holidays) for workers employed less than half-time. Qualifying period from 01.10.2013 to 30.09.2014 unless equivalent benefit in the form of luncheon vouchers provided by works collective agreement made before 01.01.2012. |
| 322 | **Temporary work agencies and licensed providers of community-based work or services:** Introduction of a CP 140.04 pension contribution matching amount paid by the temporary work agency fixed at 0.49% of the temporary worker's gross pay for the period from 01.07.2014 to 31.12.2015.<br>Increase in the CP 149.01 pension contribution matching amount paid by the temporary work agency fixed at 1.19% of the temporary worker's gross pay for the period from 01.07.2014 to 31.12.2015. |
| 326 | **Gas and electricity industry** -0.05% index adjustment on minimum wages only. |
| 330 | **Health care facilities and services:**<br>Gross annual bonus of €161.41 (Qualifying period from 01.01 to 30.09 - prorated for part timers) in "assisted living facilities". Prorated for part-timers. |
| 340 | **Orthopaedic technologies**<br>Manual workers employed at 01.04.2014: +0.06% index adjustment on all wages from 01.07.2014. |

**If you are affiliated to the payroll and HR services bureau but are looking for information on index forecasts for other industries that concern you, please e-mail previsionsindex@partena.be**

**Olivier Henry,** Legal Counsel

COLOPHON

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**More information on www.partenahr.be**

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# DETERMINATION OF PUBLIC HOLIDAYS IN 2015

## 1 THE PUBLIC HOLIDAYS IN 2015 ARE:

| | | | |
|---|---|---|---|
| Thursday 1 January | New Year | Tuesday 21 July | National Day |
| Monday 6 April | Easter Monday | Saturday 15 August | Assumption |
| Thursday 1 May | Labour Day | Sunday 1 November | All Saints' Day |
| Thursday 14 May | Ascension Day | Wednesday 11 November | Armistice Day |
| Monday 25 May | Whit Monday | Friday 25 December | Christmas Day |

## 2 REPLACEMENT IN THE COMPANY OF PUBLIC HOLIDAYS THAT COINCIDE WITH A NON-WORKING DAY

- The public holiday of Saturday 15 August is replaced by: .....
  if Saturday is not a normal working day in the company.
- The public holiday of Sunday 1 November is replaced by: .....
- If the non-working day in the company is not a Saturday but another day,
  the following public holiday(s) is (are) replaced as follows: .....

### REMINDER

- **If a public holiday coinciding with a normal working day falls in a period of annual leave, the public holiday shall fully retain its quality and shall not be replaced by another working day that falls outside the period of leave.**
- **If a public holiday coincides with a normal non-working day in the company (for example a Monday in the hairdresser's sector), this public holiday must be replaced as well.**

## 3 TIME OFF IN LIEU WHEN WORKING ON A PUBLIC HOLIDAY (ART. 11 AND 12 OF THE ACT OF 4 JANUARY 1974)

When working on a public holiday, the time off in lieu shall be granted following the instructions below:

- the time off in lieu shall be granted within 6 weeks after the public holiday;
- if worked more than 4 hours, a full day of time off in lieu shall be granted;
- if not worked more than 4 hours, half a day of time off in lieu shall be granted. This shall be done before or after 1 p.m. and on that day, the worker can only work 5 hours at the most;
- if the worker is employed part-time, the time off in lieu shall equal the real working time of the worker on that public holiday;
- the time off in lieu shall be taken during the working time;
- if the time off in lieu cannot be granted during the given period because the contract was suspended (for example by reason of illness), the time off in lieu shall be granted within 6 weeks after the end of the suspension;
- if a notice leave has been given, the time off in lieu shall be granted before the end of the notice leave.

Drawn up at ..... on .....

Signature of the workers' representative(s)

Signature of the employer or his representative

Remark - This notice is an appendix to the employment regulations that apply within the company.

# Regulation on public holidays in 2015

## For 2015 the 10 public holidays are determined as follows:

| | | | |
|---|---|---|---|
| Thursday 1 January | New Year | Tuesday 21 July | National Day |
| Monday 6 April | Easter Monday | Saturday 15 August | Assumption |
| Thursday 1 May | Labour Day | Sunday 1 November | All Saints' Day |
| Thursday 14 May | Ascension Day | Wednesday 11 November | Armistice Day |
| Monday 25 May | Whit Monday | Friday 25 December | Christmas Day |

## Replacement for public holidays in 2015 that coincide with a Sunday or a normal non-working day

The Act of 4 January 1974 with regard to the public holidays makes it compulsory that a public holiday coinciding with a Sunday or a normal non-working day is replaced by a normal working day. For a replacement day, no compensation corresponding to the wage of a working day can be paid. Companies that are working **the first 5 days of the week must not forget to replace** Saturday 15 August and Sunday 1 November 2015 by another day.

Moreover, if the normal non-working day in the company is not a Saturday, the following public holiday(s) will be replaced as follows:

.....

.....

## Replacement guidelines

The Act of 4 January 1974 stipulates that a public holiday must be replaced according to one of the following procedures:

- for the whole sector: by a decision of the joint committee prior to 1 October 2014, rendered mandatory by Royal Decree (this procedure is normally observed by the banking sector);
- in default thereof, at company level by a decision of the works council or, in default thereof, by an agreement with the trade union delegation or, in default thereof, by an agreement between the employer and the workers prior to 15 December 2014;
- if there is no agreement within the company, by an individual arrangement between the employer and the workers individually.

If the replacement days are not determined according to one of the above-mentioned procedures, public holidays coinciding with a Sunday or a normal non-working day are in all cases **replaced by the first normal working day following that public holiday**.

## Notification to the workers

Pursuant to the Act of 4 January 1974 (art. 13), the employer is obliged to post on a visible location on the company's premises a signed and dated notification in which the replacement days of the public holidays for 2015 are stated as well as the implementing rules for the time off in lieu if the worker works on a public holiday. A model document of such a notification can be found on the next page.

**REMARK** **A copy of the notification must be sent to the Supervisory Board on the social legislation (Federal Public Service Employment, Labour and Social Dialogue) of the location where the company is established (place of business)..**

## Information for the Payroll Office

The public holidays are preprinted on the time sheet. However, the employers are requested to put the ad-hoc codes against the days in replacement for public holidays that coincide with a Sunday or a normal non-working day and the days off in lieu.